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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,163	06/22/2000	David M. Oliver	005-905-330	7578
20433	7590	05/18/2004	EXAMINER	
BLODGETT BLODGETT 43 HIGHLAND STREET WORCESTER, MA 016092797			NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/599,163

Applicant(s)

OLIVER ET AL.

Examiner

Nga B. Nguyen

Art Unit

3628

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the response filed on February 26, 2004, which paper has been placed of record in the file.
2. Claims 35-41 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 35-41 have been considered but are not persuasive.

The Declaration filed on February 26, 2004 presumably under 37 CFR 1.131 has been considered but is ineffective to overcome the Teper et al. reference (US PAT. 5,815,665) for the following reasons:

In MPEP 715.04, it states that:

The following parties may make an affidavit or declaration under 37 CFR 1.131:

- (A) All the inventors of the subject matter claimed.
- (B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
- (C) A party qualified under 37 CFR 1.42, 1.43, or 1.47 in situation where some or all of the inventors are not available or not capable of joining in the filing of the application.
- (D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105

O.G. 261 (Comm'r Pat. 1903).

Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims. Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient. However, the affidavit or declaration, even though signed by fewer than all the joint inventors, must show completion of the invention by all of the joint inventors of the subject matter of the claim(s) under rejection. In re Carlson, 79 F.2d 900, 27 USPQ 400 (CCPA 1935).

In this application, the Declaration signed by William P. Densmore Jr. clearly implies that the subject matter of the claim was invented by David Oliver (see the Declaration, page 1, item 3 and the exhibit) and there is no statement of David Oliver not being possible to produce the declaration.

Thus, The Declaration filed on February 26, 2004 is ineffective to overcome the Teper et al. reference (US PAT. 5,815,665).

In conclusion, examiner maintains the rejections regarding to claims 35-41 as specified in the previous office action (also see details below) and makes this office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teper et al (hereinafter Teper), U.S. Patent No. 5,815,665, in view of Reeder, U.S. Patent No. 5,852,812.

Regarding to claim 35, Teper discloses a system for managing user accounts and controlling anonymous access to resources over data networks for a plurality of provider

members in a manner to preserve the secrecy of the identity of a user who is in a home provider's user/customer base, the system comprising:

a means for sharing non-identifying user information and charges among a plurality of service provider members comprising a home provider and an outside provider (column 5, lines 49-55, sharing user-specified customization information (non-identifying user information) between Online Broker and Service provider; column 6, lines 45-49, charging among plurality of Service Provider; column 6, lines 13-20, Service provider register with the Online Broker to become a member of Online Broker, "home provider" is equivalent to Online Broker, "outside provider" is equivalent to Service Provider);

a means for enabling a user who is registered as a customer with the home provider to anonymously access the resources of the outside provider (column 5, lines 15-38, the user registers with Online Broker as a customer and allowed anonymously access to the Service Provider);

a settling means adapted to allow the system to settle accounts among service providers by charging the home provider for access by its user to the resources of the outside provider (column 5, lines 38-44, billing system allows Online Broker to generate a centralized bill for each user);

a sharing means adapted to allow the system to permit the home provider to enable access by the user to the resources of the outside provider without requiring either personal identification or an open account from the user at the outside provider

(column 6, lines 38-67, the user access Service Provider without transmitting payment and other personal information), and

a verification means separate from the home provider adapted to allow the outside provider to determine the user's access privileges and criteria (column 8, lines 26-34, Service Provider includes brokering server for implementing the passthrough authentication protocol).

Teper does not disclose a payment means adapted to assure that the outside provider is then paid for access through the system. However, Teper discloses Online Broker handles the billing matters, settles accounts billed by the Service Providers to the user (column 4, lines 47-52, column 5, lines 38-41). Moreover, Reeder discloses a payment means adapted to assure that the outside provider is then paid for access through the system (column 6, lines 9-18, the host data center (Online Broker) pays royalties to the content provider (Service Provider) through a check or electronic payment means). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine Reeder's payment function with Teper's for the purpose of ensuring that the Service Providers is paid for the services they provided to the user.

Regarding to claim 36, Teper discloses verification means comprises a token and authentication server (column 16, lines 30-40, Service Provider is assigned tokens; column 8, lines 26-34, Service Provider includes brokering server for implementing the passthrough authentication protocol).

Regarding to claims 37, 38, Teper discloses verification means does not have access to personal identification information of user (column 6, lines 38-40, Service Provider does not receive payment or other personal information of the user).

Regarding to claim 39, Teper discloses a plurality of provider members of the system may aggregate, transfer, and share data about the users of the system (column 8, line 64-column 9, line 23), in a standardized form which identifies each user by a unique alpha-numeric sequence (column 6, lines 13-20, column 8, lines 54-60, Service Provider registers with the Online Broker to obtain a password), but wherein personal identifying attributes of the client do not need to be known to any provider member except the member responsible for enrolling the user (column 6, lines 38-40, Service Provider does not know payment or other personal information of the user, only the Online Broker knows such that information).

Regarding to claim 40, Teper discloses to handle a potential user, wherein a verification server separate from provider members is adapted to allow a member to verify that a potential user is a client of the system/a customer of a member provider, but wherein the server does not have access to the personal identity of potential user (column 8, lines 26-34, Service Provider includes brokering server for implementing the passthrough authentication protocol; column 6, lines 38-40, Service Provider does not receive payment or other personal information of the user).

Regarding to claim 41, Teper discloses means for enabling a user who is registered as a customer with the home provider to anonymously access the resources of the outside provider, the means allowing the appearance that the resources are

accessed directly from the home provider (column 8, lines 60-63, Online Broker stores and provides the user access to directory service of Service Provider).

Conclusion

7. Claims 35-41 are rejected.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
C/o Technology Center 3600
Washington, DC 20231

Or faxed to:

(703) 872-9326 (for formal communication intended for entry),

or

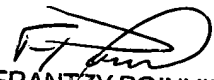
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(703) 308-3691 (for informal or draft communication, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen
May 14, 2004


FRANTZ POINVIL
PERMANENT EXAMINER
AU 3628